



STATE OF RHODE ISLAND

Attorney General Peter F. Neronha

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Attorney General Denies Application for Merger of Lifespan and Care New England Health Systems

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*AG Neronha cites significant threats to cost, quality, and access in application denial; Rhode Island will join Federal Trade Commission's lawsuit to block merger*

PROVIDENCE, R.I. – Attorney General Peter F. Neronha today issued a decision pursuant to the Office's authority under the Hospital Conversions Act, denying the proposed merger between Lifespan and Care New England. In addition, Rhode Island will join the Federal Trade Commission's lawsuit to block the transaction.

Following a thorough and exhaustive review as required under the Hospital Conversions Act (HCA), including consideration of comments and testimony received from the public, the Attorney General's Office denied the parties' application to merge, based primarily on the Office's conclusion that the proposed merger would result in extraordinary market power for the new hospital system in violation of both state and federal antitrust laws. As explained in the decision, this consolidation is likely to substantially lessen competition across many important healthcare markets (particularly inpatient general acute care) which will negatively impact healthcare costs, quality and access to care. Additionally, the Attorney General found that the parties failed to demonstrate the financial feasibility of the proposal.

"I recognize how critical healthcare is for the State and for every Rhode Islander. The COVID-19 pandemic has only further underscored the vital importance of affordable access to high-quality care for all. Put simply, if this extraordinary and unprecedented level of control and consolidation were allowed to go forward, nearly all Rhode Islanders would see their healthcare costs go up, for health care that is lower in quality and harder to access," said Attorney General Neronha.

"Our review clearly established that Lifespan and CNE compete aggressively with each other across many inpatient and outpatient service lines. Eliminating this competition will have the same effects here as seen across the country following mergers of this size: rising healthcare costs, lower quality, and reduced access. The Parties simply have not demonstrated why these results would not happen here and how they would be able to deliver on promised benefits that would outweigh these risks."

## **The Review Process**

Lifespan and CNE filed their initial merger application with the Office of Attorney General and the Rhode Island Department of Health (RIDOH) in April 2021. Following their filing, the Attorney General and RIDOH notified the parties of substantial deficiencies in their application in May, and again in September 2021. The Application was deemed complete on November 16, 2021, though additional information and documents were requested and produced after that time.

Over the course of the ten-month review, the Office collected and analyzed more than 3.6 million documents; took statements under oath of over 20 Lifespan and CNE executives, consultants they used for the merger, and representatives of Brown University; reviewed scores of academic studies; and worked closely with retained experts to analyze the proposed transaction.

We held three public meetings where more than 50 members of the public spoke and received over 200 public comments. The Attorney General is extremely grateful for the extensive public engagement in the process and appreciated hearing the views of those who both supported and opposed the transaction.

## **Competition**

Competition in the healthcare market benefits both consumers and workers – leading to lower prices and higher quality care; driving innovation; and leading to increased pay and better conditions for workers. State and Federal antitrust laws are designed to protect that competition.

If allowed to come together, this new hospital system would control an unprecedented amount of healthcare in Rhode Island, taking the state's healthcare market from one in which there is healthy competition to a virtual monopoly.

As described in the decision , the new system would:

- Control 75% of all inpatient acute care hospital beds in Rhode Island
- Control 80% of the Rhode Island market for inpatient hospital care
- Control 79% of the Rhode Island market for inpatient psychiatric care
- Control 60% or more of the Rhode Island market for many outpatient surgery specialties
- Account for 50% of commercial healthcare spending on patients whose primary care physician is part of the merged system's Accountable Care Organizations
- Employ 67% of Rhode Island's full-time registered nurses working at a hospital

[View antitrust concerns in AG decision.](#)

## **Cost, Quality, and Access**

As today's [decision](#) explains, in an environment with less competition, Rhode Islanders would have to spend more on healthcare. Rhode Island health insurance companies will no longer be able to rely on competitive pressures to keep rates down. As detailed in the [decision](#), expert analysis concluded that the new system's increased leverage means prices could go up by at least 9% *over and above* regular cost increases. Insurers generally pass on increased healthcare costs to consumers in the form of higher insurance premiums and higher out-of-pocket costs.

Right now, Lifespan and Care New England invest in greater quality and access to compete for Rhode Islanders' healthcare business. Following a merger, the combined system would be empowered to make important decisions – such as cutting service lines that have lower profit margins or delaying innovation or capital investment – without facing the pressure of competition from each other. As the [decision](#) explains: “When a system is so big, so dominant, that it is the only system that the vast majority of patients will go to for, say, inpatient care, that system no longer has to do the hard work to be better than the alternative because, there is no alternative.”

Experience shows that when this happens, quality and access to care suffer.

As today's [decision](#) explains, no conditions or additional regulations could effectively address the transaction's anticompetitive risks either in the short term, or more importantly, in the long term.

[View impacts to healthcare cost, quality, and access in AG decision.](#)

## **Financial Feasibility**

While the commitment of the leaders of Lifespan and CNE, as well as their doctors, nurses and staff, to the goals and benefits of integration is evident, given the high cost of integrating the two systems, and the absence of concrete financial and system integration plans, it is far from clear how these benefits will be achieved.

Our review was unable to reconcile the financial realities of Lifespan and CNE, each of which faces its own distinct financial challenges, with their promise that, when they combine, Rhode Island would be left with a financially healthy system that can make substantial investments in ambitious programs without raising costs on consumers, cutting services, or taking steps to keep their labor costs down.

Taking the hospitals' own estimates at face value, it is unclear where the new system would find the necessary revenue, savings, and financing to support the integration plan and make their proposed investments. Critically, this transaction would leave the vast majority of Rhode Island's healthcare services in a single system that is too big to fail.

As detailed in the [decision](#), the Parties' application failed to tell the Attorney General what the merged system will look like, what exactly Brown University's role will be, how the new system will deliver on these benefits, and why some of the innovations they propose cannot be undertaken by Lifespan and CNE without a merger.

[View financial feasibility concerns in AG decision.](#)

## **Recognizing Our Healthcare Workers**

The Attorney General's review of the proposed transaction took place at a time when our state's health-care systems and providers faced some of the toughest challenges in our state's history. This Office's appreciation for the outstanding work of Lifespan, CNE and their employees throughout this pandemic, often at great personal cost, cannot be overstated.

"I would like to acknowledge and thank those who actually make possible the delivery of healthcare in this state. These nurses, doctors, technicians, and operational and administrative staff have cared for all of us, and they have done so throughout this pandemic, and all of its associated challenges," said Attorney General Neronha.

"Today's decision is significant not only because of the magnitude of the proposal, but because of what it means for the future healthcare outcomes for Rhode Islanders," said Attorney General Neronha. "It is important to realize that this proposed transaction was never a substitute for a solution to overall healthcare strategy in Rhode Island. We all want affordable, accessible quality care. I believe Lifespan and CNE want to deliver on this promise as well. But allowing the creation of a virtual healthcare monopoly in the state is not the way to achieve these goals."

**[View presentation outlining the decision here.](#)**

**[View full decision here.](#)**

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